

#16

Atty. Docket No. 2083-2A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

In re Application of )  
David F. Mark et al. )  
Serial No. 655,897 )  
Filed: September 28, 1984 )  
For: CYSTEINE-DEPLETED MUTEINS )  
OF BIOLOGICALLY ACTIVE PROTEINS )

Before the Examiner

B. Hazel

GROUP ART UNIT: 127

NOV 4 1985

GROUP 120

RECEIVED

NOV 12 1985

Transmittal of Rule 9.1 of the Budapest Treaty

GROUP 120

Hon. Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

Upon the Examiner's request, Applicants are submitting the attached photocopy of Rule 9 from the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (Budapest Treaty).

Rule 9.1 was mentioned in the Amendment filed October 18, 1985 at page 11 (second paragraph). Said rule entitled "Duration of Storage" states that microorganism deposits at "an international depository authority shall be stored ... for a period of at least five years after the most recent request for the furnishing of a sample of the deposited microorganism ... and, in any case, for a period of at least 30 years after the date of deposit."

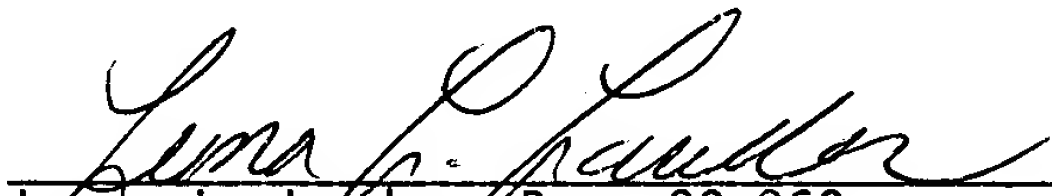
Enclosures 6(A) and 6(B) filed with said Amendment evidence that the microorganism deposits made in conjunction with the above-referenced application were in conformance with the Budapest Treaty.

Respectfully submitted,  
David F. Mark et al., Applicants

November 6, 1985

CETUS CORPORATION  
1400 Fifty-Third Street  
Emeryville, California 94608  
(415) 420-3217

By

  
Leona L. Laidler, Reg. 30,863  
Attorney for Applicants

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United States  
Department of  
Agriculture

Agricultural  
Research  
Service

North Central Region  
Northern Regional  
Research Center

1815 North University Street  
Peoria, Illinois  
61604

Enclosure 6 (H)

March 30, 1983

Dr. Angela Belt  
Cetus Corporation  
600 Bancroft Way  
Berkeley, California 46710

Dear Dr. Belt:

Enclosed is the International Receipt form BP/4 for deposits made in connection with the Budapest Treaty. The subject strain is:

<u>Name</u>	<u>Strain Designation</u>	<u>NRRL number</u>
<u>Escherichia coli</u> PSY 2501	CMCC #1533	B-15356

Sincerely,

A. J. LYONS, Curator  
ARS Patent Collection  
Culture Collection Research  
Fermentation Laboratory

Enclosure

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BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

TO  
Dr. Angela Belt  
Cetus Corporation  
600 Bancroft Way  
Berkeley, CA 94710

VIABILITY STATEMENT

issued pursuant to Rule 10.2 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified on the following page

NAME AND ADDRESS OF THE PARTY  
TO WHOM THE VIABILITY STATEMENT  
IS ISSUED

I. DEPOSITOR	II. IDENTIFICATION OF THE MICROORGANISM
Name: Ms. Angela Belt Address: Cetus Corporation 600 Bancroft Way Berkeley, CA 94710	Depositor's taxonomic designation and accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY: <u>Escherichia coli</u> NRRL B-15356 Date of: <u>March 30, 1983</u> <sup>1</sup> <input checked="" type="checkbox"/> <sup>2</sup> Original Deposit <input type="checkbox"/> <sup>2</sup> New Deposit <input type="checkbox"/> <sup>2</sup> Transfer
III. VIABILITY STATEMENT AND DEPOSITOR'S EQUIVALENCY DECLARATION	
Deposit was found: <input checked="" type="checkbox"/> <sup>2</sup> Viable <input type="checkbox"/> <sup>2</sup> Nonviable on <u>March 4, 1983</u> (Date) International Depositary Authority's preparation was found viable on <u>March 7, 1983</u> (Date) Depositor determined the International Depositary Authority's preparation was <input checked="" type="checkbox"/> <sup>2</sup> Equivalent <input type="checkbox"/> <sup>2,3</sup> Not Equivalent to deposit on <u>6/21/83</u> (Date)	

Signature of Depositor Angela Belt

- <sup>1</sup> Indicate the date of the original deposit or when a new deposit or a transfer has been made.
- <sup>2</sup> Mark with a cross the applicable box.
- <sup>3</sup> If found nonequivalent, depositor must supply 30 lyophilized preparations made to NRRL size specifications.

IV. CONDITIONS UNDER WHICH THE VIABILITY TEST WAS PERFORMED <sup>4</sup>	
V. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s): <u>Alister Jones</u> Date: <u>April 14, 1983</u>

<sup>4</sup> Fill in if the information has been requested and if the results of the test were negative.

Mr. A.J. Lyons  
Agricultural Research Culture Collection  
1815 N. University Street  
Peoria, Illinois 61604

June 21, 1983

Dear Mr. Lyons;

Enclosed is the equivalency declaration of another of the strains that we deposited with you. I also wish to inform you that our mailing address has changed. Our main headquarters is no longer located in Berkeley. Correspondance should be addressed to us at 1400 Fifty-Third Street, Emeryville, California 94608. Also, my new phone number is (415) 420-3300.

Sincerely,

CETUS CORPORATION

Angela Belt  
Curator-Culture Collection



United States  
Department of  
Agriculture

Agricultural  
Research  
Service

North Central Region  
Northern Regional  
Research Center

1815 North University Street  
Peoria, Illinois  
61604

April 14, 1983

Dr. Angela Belt  
Cetus Corporation  
600 Bancroft Way  
Berkeley, California 94710

Dear Dr. Belt:

Enclosed is the viability statement form for:

NRRL B-15356 Escherichia coli PSY2501 (CMCC #1533)

I will send under separate cover our lyophilized preparation for this strain. As soon as you confirm the equivalency of this preparation to your original deposit; complete, sign, and return the original viability statement to me.

Sincerely,

A. J. LYONS, Curator  
ARS Patent Collection  
Culture Collection Research  
Fermentation Laboratory

Enclosure

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Mr. A. J. Lyons  
Agricultural Research Culture Collection  
1815 N. University Street  
Peoria, Illinois 61604

May 10, 1983

Dear Mr. Lyons;

Please send us an additional lyophil of NRRL B-15356,  
CMCC#1533 Escherichia coli pSY 2501 so that we can complete  
equivalency testing of this strain. Thanking you in advance.

Sincerely,

CETUS CORPORATION

Angela Belt  
Curator-Culture Collection

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BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

TO  
Angela Belt  
Cetus Corporation  
600 Bancroft Way  
Berkeley, CA 46710

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT  
issued pursuant to Rule 7.1 by the  
INTERNATIONAL DEPOSITARY AUTHORITY  
identified at the bottom of this page

NAME AND ADDRESS  
OF DEPOSITOR

I. IDENTIFICATION OF THE MICROORGANISM	
Identification reference given by the DEPOSITOR:  CMCC# 1533 <u>Escherichia coli</u> PSY 2501	Accession number given by the INTERNATIONAL DEPOSITARY AUTHORITY:  NRRL B-15356
II. SCIENTIFIC DESCRIPTION AND/OR PROPOSED TAXONOMIC DESIGNATION	
The microorganism identified under I above was accompanied by:  <input type="checkbox"/> a scientific description  <input checked="" type="checkbox"/> a proposed taxonomic designation  (Mark with a cross where applicable)	
III. RECEIPT AND ACCEPTANCE	
This International Depositary Authority accepts the microorganism identified under I above, which was received by it on March 30, 83 (date of the original deposit) <sup>1</sup>	
IV. INTERNATIONAL DEPOSITARY AUTHORITY	
Name: Agricultural Research Culture Collection (NRRL) International Depositary Authority Address: 1815 N. University Street Peoria, Illinois 61604 U.S.A.	Signature(s) of person(s) having the power to represent the International Depositary Authority or of authorized official(s):  Date: <i>Alister Lyons</i> March 30, 1983

<sup>1</sup> Where Rule 6.4(d) applies, such date is the date on which the status of international depositary authority was acquired; where a deposit made outside the Budapest Treaty after the acquisition of the status of international depositary authority is converted into a deposit under the Budapest Treaty, such date is the date on which the microorganism was received by the international depositary authority.



Enclosure 6 (B)

AMERICAN TYPE CULTURE COLLECTION

12301 Parklawn Drive, Rockville, Maryland 20852, U.S.A.

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

TO: Cetus Corporation  
ADDRESS: 1400 - 53rd Street  
Emeryville, California 94608  
Attention: Angela Belt

DEPOSITOR: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Identification of the Microorganism(s)

ATCC Accession Designation(s)

Escherichia coli mm294-1, cmcc#1872  
Escherichia coli pLW55 (mm294-1), cmcc#1865  
\* Escherichia coli psy2501 (mm294-1), cmcc# 1494

39515

39516

39517

Date of the Deposit or of the Transfer\* November 18, 1983

The viability of the microorganism(s) identified above was tested on December 1, 1983.  
On that date, the said microorganism(s) was(were):

XX viable

       no longer viable

CONDITIONS UNDER WHICH THE VIABILITY TEST HAS BEEN PERFORMED (complete only if  
test was negative): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

INTERNATIONAL DEPOSITORY AUTHORITY:

American Type Culture Collection  
12301 Parklawn Drive  
Rockville, Maryland 20852, U.S.A.

Signature of person having the power to  
represent the ATCC:

Bobbie A. Brandon

(Mrs.) Bobbie A. Brandon, Head  
Professional Services Department

Date: December 2, 1983

\*In cases referred to in Rule 10.2(a)(ii) and (iii), refer to the most recent viability  
test.

Form BP/9 (one page only)

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AMERICAN TYPE CULTURE COLLECTION  
12301 Parklawn Drive, Rockville, Maryland 20852, U.S.A.

BUDAPEST TREATY ON THE INTERNATIONAL  
RECOGNITION OF THE DEPOSIT OF MICROORGANISMS  
FOR THE PURPOSES OF PATENT PROCEDURE

INTERNATIONAL FORM

TO: Cetus Corporation  
1400 - 53rd Street  
Emeryville, California 94608  
Attention: Angela Belt

RECEIPT IN THE CASE OF AN  
ORIGINAL DEPOSIT issued  
pursuant to Rule 7.3 by the  
INTERNATIONAL DEPOSITARY AUTHORITY

Name and Address of Depositor  
or His/Her Attorney

Identification reference given by the  
DEPOSITOR:

Accession number given by the ATCC:

<u>Escherichia coli</u> mm294-1, cmcc#1872	39515
<u>Escherichia coli</u> pLW55 (mm294-1), cmcc#1865	39516
<u>Escherichia coli</u> psy2501 (mm294-1), cmcc# 1494	39517

The microorganism(s) identified above was(were) accompanied by:

☐ a scientific description

☒ a proposed taxonomic designation: \_\_\_\_\_

The microorganism(s) identified above was(were) received on November 18, 1983  
by this International Depositary Authority and has been accepted.

Name of International Depositary Authority

American Type Culture Collection

Address: 12301 Parklawn Drive

Rockville, Md. 20852 U.S.A.

Signature of person having the power  
to represent the American Type  
Culture Collection.

Bobbie A. Brandon

(Mrs.) Bobbie A. Brandon

Date: December 2, 1983



AMERICAN TYPE CULTURE COLLECTION

12301 Parklawn Drive  
Rockville, Maryland 20852 U.S.A.  
Tel.: 301-881-2600 Telex: 908-768

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE  
DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

- \*1. Name of microorganism or culture Escherichia coli psy2501 (mm294-1)
2. Strain designation given by the depositor (number, symbols, etc.) cmcc# 1494; psy2501 (mm294-1) 39517
3. Is this strain being deposited under the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure? YES  
Name and Address of Depositor CETUS CORPORATION  
1400 53rd STREET  
EMERYVILLE, CALIFORNIA 94608
4. Is this deposit a mixture of microorganisms? NO
5. Details and conditions necessary for the cultivation of the strain for its storage and for testing its viability and also, where a mixture of microorganisms is deposited, descriptions of the components of the mixture and at least one of the methods permitting the checking of their presence. Grow at 35C in 2X Luria Broth w/1% NaCl, thiamine, and without glucose. Include 50ug/ml Ampicillin in medium (recipe attached)
6. An indication of the properties of the strain which are or may be dangerous to health or the environment, or an indication that the depositor is not aware of such properties. unaware of hazards
- \*7. It is recommended that sufficient description be provided to allow the ATCC to confirm that the strain deposited generally conforms to that which the depositor states is being deposited (i.e., gram negative rod). gram negative rod
- \*8. Is this strain zoopathogenic? no phytopathogenic? no

\*The answers to these questions are recommended but not required.

FOR ATCC USE ONLY

ATCC NO. \_\_\_\_\_

DATE CULTURE RECEIVED \_\_\_\_\_

DATE VIABILITY TEST COMPLETED \_\_\_\_\_

9. Does this strain contain plasmids relevant to the patent process? yes  
If so, what physical containment level is required for experiments as described in the 1980 National Institutes of Health Guidelines involving Recombinant DNA Molecules (i.e., P1, P2, P3 and P4 facility)? P1

\*10. Isolated from? \_\_\_\_\_

11. Do you wish the strain made available to:

- a. Those entitled to a sample under the Budapest Treaty? YES
- b. Those entitled to a sample under the European Patent Convention? YES
- c. Anyone who requests a culture? NO
- d. Other (please state) NONE

12. Do you wish the ATCC to inform you of all requests for this strain? (This is allowed under the Treaty, but if you waive the right, the fee is reduced.) YES

13. Viability testing certificate and contracts should be directed to (if different from that given under Item 3) ANGELA BELT

CETUS CORPORATION, 1400-53rd STREET, EMERYVILLE, CALIFORNIA 94608

14. Check in payment of service must accompany the deposit unless prior arrangements are made and approved. If arrangements have been made to bill you for services an invoice should be sent to: \_\_\_\_\_

please send invoice to Angela Belt at address given above May bill

to purchase order number: 72310

15. Additional Comments: \_\_\_\_\_

Include ampicillin in medium to retain plasmid (50ug/ml)

*I understand and agree that the deposit may not be withdrawn by me for the period specified in Rule 9.1 of the Budapest Treaty (at least 30 years after the date of deposit).*

DATE November 16, 1983 SIGNATURE OF DEPOSITOR Angela Belt

CETUS CORPORATION ANGELA BELT

On behalf of (Name of company or institution if signed on their behalf) (Typed name of Depositor)

THIS FORM MUST BE COMPLETED IN ENGLISH

ADDRESS SHIPMENTS AND FORM TO THE ATTENTION OF:

Mrs. Bobbie A. Brandon  
American Type Culture Collection  
12301 Parklawn Drive  
Rockville, Maryland 20852, U.S.A.

\*The answers to these questions are recommended but not required.